

**REMARKS**

In view of the following remarks, the Examiner is requested to allow Claims 1, 2, 4-10, 12-28 and 35, the only claims pending and under examination in this application.

Claim 1 has been amended to clarify the claim language. Claim 28 was amended to correct its dependency. Claim 35 has been added. Support for new Claim 35 can be found throughout the specification and claims as originally filed, particularly at paragraph 17. Claim 11 has been cancelled. Accordingly, no new matter has been added.

As no new matter has been added by way of these amendments, entry thereof by the Examiner is respectfully requested.

***Claim Rejections - 35 U.S.C. § 102***

Claims 1-28 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Deeg et al. (USPN 5,338,688).

An element of rejected Claims 1, 12, 17, 22, and the claims dependent therefrom, is front loading a fluid into an inkjet head by contacting an orifice with the fluid in a manner so that the fluid flows through the orifice and into a firing chamber.

The Applicants contend that Deeg does not disclose the front loading of a fluid into an inkjet head.

The Office, however, asserts that the "front loading" procedure claimed by the Applicants is an inherent property of the Deeg apparatus because the Deeg apparatus allegedly contains a "narrow tube" and it is known in the art that capillary forces is an inherent property of narrow tubes.

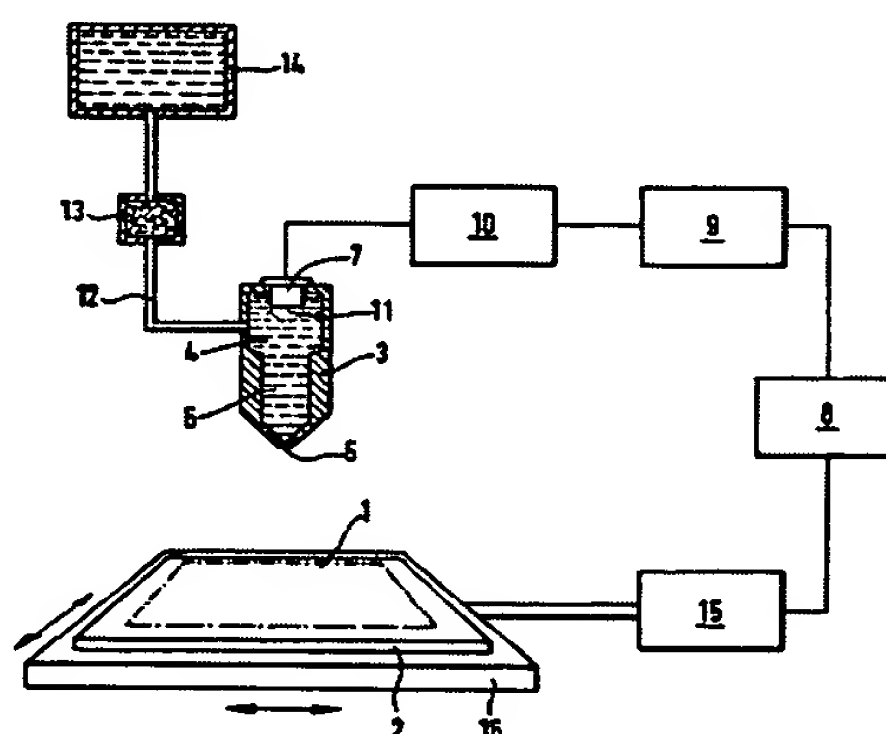
In maintaining this rejection, the Office directs the Applicants to M.P.E.P. § 2112.02, set forth herein below.

“Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process.” (emphasis added)

Accordingly, in view of the cited M.P.E.P. section, it appears that the Office is asserting that because the Deeg apparatus could potentially be employed in the claimed methods, the Deeg reference anticipates the methods of the rejected claims. The Applicants respectfully disagree.

As set forth in the Applicants response filed September 21, 2006, the Applicants contend that Deeg does not positively recite a method as claimed in the present application.

Furthermore, to the extent that Deeg discloses loading the jet chamber 4 with an analytical fluid, Deeg discloses that the analytical fluid is delivered to the jet chamber 4 from reservoir 14 via line 12 (see below).



Hence, in view of the above, it is clear that Deeg does not positively recite a method as claimed since Deeg does not disclose a method that includes front loading an apparatus.

Further, the Office asserts that the Applicants have “stated on the record that ‘the Deeg apparatus may be capable of being front loaded...’” In response, the Applicants would like to point out to the Office that the term “may” is not “is.” Accordingly, simply because the Applicants have acknowledged that it *may* potentially be possible to “front load” the Deeg apparatus does not in any way take away from the deficiency in Deeg in that Deeg fails to teach or suggest a method in which the apparatus is front loaded.

Claims 1, 2 and 9 have been rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Caren et al. (USPN 6,221,653 B1).

Claim 1 has been amended to indicate that the quantity of fluid to be front loaded into the thermal inkjet head is no more than about 5  $\mu$ l. The Office has not indicated where in the cited reference this element is taught. Accordingly, the Applicants contend that Caren '653 does not anticipate the rejected claims and respectfully request that this rejection be withdrawn.

Claims 1, 2, 9 and 11 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Caren et al. (USPN 6,797,469 B2).

Claim 1 has been amended to indicate that the quantity of fluid to be front loaded into the thermal inkjet head is no more than about 5  $\mu$ l. The Office has not indicated where in the cited reference this element is taught. Accordingly, the Applicants contend that Caren '469 does not anticipate the rejected claims and respectfully request that this rejection be withdrawn.

### ***Double Patenting***

Claims 1, 2, 9 and 11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 19-21 and 23 of USPN 6,797,469.

Claim 1 has been amended to indicate that the quantity of fluid to be front loaded into the thermal inkjet head is no more than about 5  $\mu$ l. The Office has not indicated where in the cited reference this element is taught. Accordingly, the Applicants contend that Caren '469 does not render the rejected claims obvious and respectfully request that this rejection be withdrawn.

Claims 1, 2 and 9 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 5-7, 9, 10, 12 and 23 of USPN 6,221,653.

Claim 1 has been amended to indicate that the quantity of fluid to be front loaded into the thermal inkjet head is no more than about 5  $\mu$ l. The Office has not indicated where in the cited reference this element is taught. Accordingly, the Applicants contend that Caren '653 does not render the rejected claims obvious and respectfully request that this rejection be withdrawn.

Claims 1, 2, 9 and 11 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 9, 11-13, 15 and 18 of USPN 6,656,740.

Claim 1 has been amended to indicate that the quantity of fluid to be front loaded into the thermal inkjet head is no more than about 5  $\mu$ l. The Office has not indicated where in the cited reference this element is taught. Accordingly, the Applicants contend that Caren '740 does not render the rejected claims obvious and respectfully request that this rejection be withdrawn.

Claims 1, 2, 6, 7 and 8 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5, 7 and 11-19 of USPN 6,323,043.

Claim 1 has been amended to indicate that the quantity of fluid to be front loaded into the thermal inkjet head is no more than about 5  $\mu$ l. The Office has not indicated where in the cited reference this element is taught. Accordingly, the Applicants contend that Caren '043 does not render the rejected claims obvious and respectfully request that this rejection be withdrawn.


**CONCLUSION**

In view of the amendments and remarks above, Applicants respectfully submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone Timothy Joyce at (408) 553-2510.

The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-1078, order number 10991398-1.

Respectfully submitted,

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